IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 919 OF 2007

Shri Vijay Dinkar Salunkhe ..Petitioner

Vs.

The State of Maharashtra and anr. ..Respondents

Mr. Amit Sale for petitioner.
Mr. A.S. Shitole, APP for State.
Ms. Shubhangi Borade for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : September 13, 2007.

P.C.:

1. Heard Mr. Sale the learned counsel for the petitioner. Mr. Shitole, the learned APP appears for the State and Ms. Borade the learned counsel appears for the respondent no.2.

2. This petition filed under Article 227 of the Constitution read with Section 482 of Cr.P.C. prays for quashing of C.R. No.142 of 1994 which was registered against the petitioner and other on 15/10/1994 for the offences punishable under Section 323 of IPC and Section 3(1)(x) of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act, 1989. During the course of investigation, the present petitioner was absconding and, therefore, charge-sheet came to be filed only against Shri Subhash Jayprakash Salunkhe in Special Criminal Case No. 3 of 1995. The original complainant PW 1 Shri Popat Shivaji Lokhande stepped in the witness box on 15/10/1998 during the trial of Special Cri. Case No.3 of 1995 and he was declared hostile by the learned APP. The Special Cri.Case No.3 of 1995 was finally dismissed by the learned 4th Addl. Sessions Judge at Sangli vide his Judgment and Order dated 15/10/1998. About 9 years later, this petition has been moved for quashing of the C.R. from which Special Cri.Case No.3 of 1995 originated.

3. The original complainant-respondent no.2 has filed an affidavit-in-reply and supported the prayer for quashing the C.R. In addition, Mr. Sale has also relied upon the decision of this court in the case of Mansur A. Khan vs. State of Maharashtra and ors. [2004 (3) Mh.L.J. 550] and more particularly the observations made in para 10 therein.

4. Undoubtedly, the petitioner was not available for trial, he was declared as an absconder and 9 years later he approaches this court for quashing of the C.R. and allowing such a prayer now will be amounting to granting reward to an absconder. The petitioner cannot be allowed to rely upon the order of acquittal in support of his prayer to quash the C.R. when he was absconding.

5. Petition is rejected summarily.

(B.H. Marlapalle,J.)